

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
MICHAEL HALE and ALLA HALE	)	
Plaintiffs	)	Civil Action No.:
	)	
v.	)	
	)	
PAN AM RAILWAYS, INC., AMERICOLD	)	
LOGISTICS LLC, CRYO-TRANS, INC.,	)	
Defendants.	)	
_____	)	

COMPLAINT AND JURY DEMAND

Parties

1. Plaintiff, Michael Hale, is an individual residing at 5 Sherman Road, Enfield, Connecticut.

2. Plaintiff, Alla Hale, is an individual residing at 5 Sherman Road, Enfield, Connecticut.

3. Pan Am Railways, Inc. (õPan Amö) is a Delaware corporation with its principal place of business in Billerica, Middlesex County, Massachusetts.

4. Americold Logistics LLC (õAmericoldö) is a Delaware corporation with its principal place of business in Atlanta, Georgia.

5. Cryo-Trans, Inc. (õCryo-Transö) is a Maryland corporation with its principal place of business in Maryland.

Jurisdiction & Venue

6. Jurisdiction is proper pursuant to 28 U.S.C. 1332 as there is complete diversity between all of the plaintiffs and defendants and the amount and controversy exceeds \$75,000.00.

7. Venue is proper pursuant to 28 U.S.C. 1391(b)(2), because a substantial part of the events or omissions that give rise to this claim occurred in Hatfield, Berkshire County, Massachusetts.

Facts

8. On February 3, 2015, Mr. Hale was employed by C&S Wholesale Grocers (C&S) at their facility located in Hatfield, Berkshire County, Massachusetts as an order selector. Mr. Hale began working for C&S in 1996. According to C&S, it is the largest wholesale grocery supply company in the United States and the lead supply chain company in the food industry. It operates regional distribution centers where it receives products from food and grocery companies and then ships them to supermarkets and other institutions.

9. On February 3, 2015, Mr. Hale was instructed to unload a Railcar CRYX 5017 loaded with pallets of boxes containing frozen tater tots from Heinz in Pittsburgh, Pennsylvania.

10. Upon information and belief, Americold is the owner, operator, and/or entity responsible for loading, packing, packaging, shipping, and/or transporting Railcar CRYX 5017 and/or its contents.

11. Upon information and belief, Pan Am is the owner, operator, and/or entity responsible for loading, packing, packaging, shipping, and/or transporting Railcar CRYX 5017 and/or its contents.

12. Upon information and belief, Cryo-Trans is the owner, operator, and/or entity responsible for loading, packing, packaging, shipping, and/or transporting Railcar CRYX 5017 and/or its contents.

13. Prior to February 3, 2015, Railcar CRYX 5017 reached C&S facility in Hatfield. Upon its arrival, C&S notified Pan-Am that it was rejecting Railcar CRYX 5017 due to safety concerns of the weight distribution of the product in Railcar CRYX 5017.

14. On January 26, 2016, Mark Ormond the director of freight claims for Pan Am wrote to C&S, "The cause of this load shift could have happened for a few different reasons including transit issues and/or loading issues."

15. In the same e-mail, Mr. Ormond further wrote, "we cannot send the car back to Heinz to be unloaded as the car is now considered unbalanced. We cannot move unbalanced cars due to the risk factors including a derailment" the best way to handle this would be to start unloading it with either a fork lift or by hand as safely as possible."

16. As a result, on February 3, 2015, Mr. Hale and a team of C&S employees were instructed by C&S to unload Railcar CRYX 5017 by hand.

17. During the process of attempting to unload Railcar CRYX 5017, a pallet containing several boxes of the Heinz tater tots weighing over eighty (80) pounds fell on Mr. Hale.

18. As a result of the incident, Mr. Hale suffered extensive and permanent injuries. As a result of the incident, Mr. Hale suffered injuries to his ankles, feet, knee(s), neck, back, and post traumatic stress disorder. These injuries include fractures in both of his feet that required surgical intervention. Mr. Hale continues to experience pain and suffering from the injuries sustained on February 3, 2015. Additionally, as a result of the injuries sustained, Mr. Hale has been unable to return to work and has been determined to be partially disabled.

19. To date, Mr. Hale has incurred medical bills and lost wages in excess of \$240,000.00 plus additional pain and suffering.

Causes of Action

Count I ó Negligence  
(Michael Hale v. Pan Am)

20. Mr. Hale restates and reallges the allegations contained in Paragraphs 1 through 19 as set forth herein.

21. Pan Am negligently and carelessly owned, operated, loaded, packed, packaged, shipped, and/or transported Railcar CRYX 5017 and/or its contents.

22. As a direct and proximate result thereof, Mr. Hale sustained serious injuries and suffered significant damages.

Count II ó Negligence  
(Michael Hale v. Americold)

23. Mr. Hale restates and reallges the allegations contained in Paragraphs 1 through 22 as set forth herein.

24. Americold negligently and carelessly owned, operated, loaded, packed, packaged, shipped, and/or transported Railcar CRYX 5017 and/or its contents.

25. As a direct and proximate result thereof, Mr. Hale sustained serious injuries and suffered significant damages.

Count IIIó Negligence  
(Michael Hale v. Cryo-Trans)

26. Mr. Hale restates and reallges the allegations contained in Paragraphs 1 through 25 as set forth herein.

27. Cryo-Trans negligently and carelessly owned, operated, loaded, packed, packaged, shipped, and/or transported Railcar CRYX 5017 and/or its contents.

28. As a direct and proximate result thereof, Mr. Hale sustained serious injuries and suffered significant damages.

Count IV ó Loss of Consortium  
(Alla Hale v. All Defendants)

29. Mrs. Hale restates and reallges the allegations contained in Paragraphs 1 through 28 as set forth herein.

30. As a direct and proximate result of the negligence of each of the Defendants, plaintiff, Alla Hale, has been without the care, comfort, companionship, and society of her husband therefore sustained damages.

Prayer for Relief

WHEREFORE, the Plaintiffs, Michael Hale and Alla Hale, demand judgment against each of the Defendants, in an amount to be determined by a fact finder along with pre-judgment interest, post-judgment interest, and costs and any and all other relief that the Court deems just and fair.

Jury Demand

Plaintiffs, Michael Hale and Alla Hale, demand a trial by jury as to claims so triable.

Respectfully Submitted,

Michael and Alla Hale,

/s/ Andrew E. Goloboy

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/s/ Steven R. Whitman

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